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CABLE CARRIAGE AND RE-BROADCASTING

OF


DISTANT SIGNALS

Comments in response to CRTC
Public Notices 1984-13 and 1984-68

The Honourable James Snow
Minister
May 1984

C O N T E N T S

	<u>Page No.</u>
I Introduction	1
II Policy Objectives	3
III Objectives of the Broadcasting Act	5
IV Issues	7
V Summary of Recommendations	22



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I Introduction

Satellite technology has brought about a revolution in the distribution of television services. Distance-insensitive satellites can bring additional services to the underserved, improve the quality of transmission, and contribute to meeting viewers' apparently insatiable demand for increased choice of programming. One successful application of satellite technology to broadcasting is the birth and growth of "superstations".

Superstations have become an increasingly popular service in the United States, with the Atlanta, New Jersey and Chicago stations capturing 5% of total television viewership across the country. U.S. superstations' programming is characterized by an emphasis on movies, sports and syndicated re-runs, as well as a continued strong identification with the originating city in news and advertising.

The U.S. experience is not directly applicable to Canada, but highly similar consumer viewing patterns and U.S. signal spillover need to be considered.

Ontario commissioned a Nielsen special analysis of the penetration of U.S. superstations into Canada during 1983. The analysis showed that the three U.S. superstations had an average quarter hour viewing audience of 24,000 during the "superstation prime time" hours of 4:00 to 7:00 p.m. While this is a relatively small number of viewers, it is astonishing when one considers that these stations would have only been available to the then estimated 30,000 satellite dish owners in Canada.

As a result of this research, Ontario recommended to the Commission, in its January 4, 1984 submission on new specialty services, that it authorize the introduction of Canadian superstations. This recommendation was predicated on the following benefits:

- o increased choice for viewers, including more Canadian choice
- o Canadian broadcasters would be able to compete fairly with U.S. superstations
- o French-language services across Canada could be increased through a French-language superstation

Ontario welcomes the opportunity to discuss this issue more fully, in response to CRTC notices 1984-13 and 1984-68, regarding cable carriage and re-broadcasting of distant Canadian signals. Throughout this paper, the term "superstation" is used interchangeably with "distant signal".

II Ontario's Policy Objectives

In assessing any policy proposal in the communications field, Ontario is guided by three key objectives:

- o ensuring consumer access to a reasonable choice of services at fair prices;
- o promoting efficient and effective communications networks; and
- o contributing to economic growth through stimulation of communications industries

Ontario believes that the distribution of distant broadcast signals will help satisfy each of these objectives. Specifically, distant signals will:

- o increase the choice of programming to viewers;
- o enhance the development and utilization of Canada's broadcasting, cable and satellite networks; and
- o contribute to economic growth through exploiting both new advertising sources and new technologies, and boosting the Canadian production industry.

Ontario recognizes that this advancement in the broadcasting system will require some change in many elements of the system. . The roles of local broadcasters, networks, independents, cable companies and advertisers will all have to adjust. Ontario believes that this change can be harnessed to the benefit of consumers and industry alike, if both the industry and the regulator respond in a forward-looking and creative manner.

III Objectives of the Broadcasting Act

In addition to addressing Ontario's policy objectives, the introduction of distant signals is consistent with the requirements of the Broadcasting Act. Specific attention should be paid to the following sections:

- "3. (b) the Canadian broadcasting system should be effectively owned and controlled by Canadians so as to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada;
- (c) all persons licensed to carry on broadcasting undertakings have a responsibility for programs they broadcast but the right to freedom of expression and the right of persons to receive programs, subject only to generally applicable statutes and regulations, is unquestioned;
- (d) the programming provided by the Canadian broadcasting system should be varied and comprehensive and should provide reasonable, balanced opportunity for the expression of differing views on matters of public concern, and the programming provided by each broadcaster should be of high standard, using predominantly Canadian creative and other resources; and

(j) the regulation and supervision of the Canadian broadcasting system should be flexible and readily adaptable to scientific and technical advances."

In Ontario's view, distant Canadian signals should repatriate viewers from both cable-carried and satellite-delivered American services by offering popular Canadian services that are owned and operated by Canadians using predominately Canadian resources. In addition, the right of Canadians to receive programs will be recognized if Canadian services are permitted to compete freely and if the regulatory system adapts to the technological change that enables stations to be distributed nationally.

IV Issues

The introduction of distant signal redistribution in Canada raises a number of key issues which are analyzed in the following sections:

- o increased viewer choice
- o methods of distribution
- o changing technology
- o keeping the broadcasting system Canadian
- o impact on local broadcasters

In addition, the following issues regarding the regulatory response to distant signals are discussed:

- o local commitments of superstations
- o cable carriage priorities
- o restrictions on advertising revenues
- o should a public hearing be held?
- o non-advertiser supported services
- o distant radio signals

Increased Viewer Choice

At the heart of this issue is the key question: will distant signals really increase viewer choice of programming? While some have concluded that increased channel choice does not mean increased program choice, or that there will be very little new programming introduced into distant markets, Ontario's research indicates otherwise. Ontario examined a medium-sized market which is currently licensed for only CBC and CTV service, and where the American "3+1" are carried on cable. Looking at the March 1984 program schedules for the CBC and CTV services, as well as the schedules for two independent, potential distant signals, we found the following:

Total programming of independents	212 hours per week
Duplicated off-air programming	12 1/2 hours per week
Duplicated U.S. station programming	56 1/2 hours per week
Unduplicated programming	143 hours per week (of which 125 hours are Canadian)

This example of the introduction of two distant signals into a medium-sized Ontario market, means that 143 hours of new, unduplicated programming would be available to viewers, 125 hours of which would be Canadian programming. While some of this would be local programming from the originating communities of the distant signals, both this and the additional general interest programming would mean a significant increase in choice.

Ontario also looked at this sample market to determine what potential negative impacts there might be on consumers. Specifically, Ontario examined the likely impact which distant signals on cable might have on the non-cabled household with respect to loss of programming. Theoretically, in this sample market, 23% of households could lose access to up to 12 1/2 hours of programming per week, if the distant signal was not re-broadcast locally. This might result from the distant signal buying exclusive rights to the programming which is currently bought by both the independent and affiliates for their respective local markets.

Since distant signals will result in increased viewer choice, and especially increased Canadian choice, Ontario recommends that the Commission permit distribution of Canadian distant signals.

Methods of Distribution

The most obvious method of distributing distant signals is satellite-to-cable transmission. If the distant signal station seeks a national audience, this is the only practical means.

Nevertheless, there are two situations where local re-broadcasting from satellite or microwave transmission might be desirable. The first would be to allow non-cabled households in a market to have equal access to the distant signal, thereby not restricting increased choice to cabled homes. This would only be feasible in relatively large markets, due to the cost of the re-broadcasting equipment in relation to the incremental increase in audience.

The second situation would involve a station which did not seek a national audience, but wanted to become a distant signal on a regional basis. In this case, microwave transmission of the signal to nearby re-broadcast transmitters would allow both cabled and non-cabled homes to receive it.

Ontario recognizes that the local re-broadcasting of distant signals would pose an additional audience fragmentation threat to the local network affiliates. Ontario believes, however, that the potential increased choice and providing non-cabled homes equal access to distant signals, are strong reasons to support permitting local re-broadcasting of distant signals.

Changing Technology

Technological advances in satellite, cable and broadcasting make available many more viewing options than ever before. In many senses, technology has become a driving force for change, with programming unable to satisfy the incredible distribution capacity. As in the field of computers, the danger of having the technology outpace the software and readiness of users to exploit it, certainly exists.

In order for Canadian services to remain competitive, we must always be asking how we can use existing technology to further the achievement of our objectives. The Broadcasting Act recognizes this in calling for the regulator to be "readily adaptable to

scientific and technical advances". The National Broadcasting Strategy also stresses the importance of adapting to changing technology and the need to harness it to compete in the current environment.

Indeed, the Chairman of the Commission in his recent speech to the advertising community in Montreal, stated:

"The single most significant effect of the new communications technology has been an increase in competition, both in terms of new players in the industry, and in terms of new products and services, many of which are unregulated, but compete with traditionally regulated industries."

Ontario believes that one of the most important questions which the Commission must consider in dealing with this issue, is: what will happen if distribution of Canadian signals is not authorized?

Canadian viewers will seek out additional choice. If viewers do not have an adequate choice of licensed Canadian services, the Canadian broadcasting system will be by-passed, as the viewer turns to videocassettes, computer games, and direct satellite and SMATV reception. Programs, primarily American programs, will be available directly from U.S. satellites or from video retailers, thus by-passing the local broadcaster and cable operator.

Canadian broadcasters must be free to compete to meet the demand for additional choice, or through increasingly available and affordable technology, Canadians will look elsewhere. The authorization of Canadian distant signals will allow Canadian broadcasters to compete with U.S. services, while contributing to the cultural objectives which the Broadcasting Act places on the Canadian broadcasting system.

Keeping the Broadcasting System Canadian

While recognizing that the introduction of distant signals will adversely impact on some other Canadian licensees, Ontario believes that this is a necessary step to keep the broadcasting system in Canada "primarily Canadian".

If the Commission allows Canadian broadcasters to compete more effectively with American services, it is likely that consumer demand for increased choice can be met, at least partially, through the Canadian broadcasting system. The attractiveness of cable service will remain strong. Canada's satellite network will be utilized more fully and hence more efficiently. Advertising revenues in Canada, which are currently half of those in the U.S., on a per capita basis, will likely be increased, partially to meet the increasing costs for programming, but partially due to increased availability of markets through satellite delivery. Increased advertising revenues could be used to sponsor more attractive and competitive Canadian program production.

Alternatively, maintaining the status quo, may keep the Canadian broadcasting system "primarily Canadian" for a time. However, eventually, it may mean a Canadian broadcasting system that is by-passed and not watched, to the point where publicly-supported Canadian programming and commercially-supported Canadian news and sports are all that will be left.

Impact on Local Broadcasters

Ontario shares the concern that distribution of distant signals will cause further audience fragmentation, and may be a particular threat to local CBC and CTV affiliates in small and medium-sized markets.

Ontario believes, however, that this issue should not be examined in isolation from all of the other events in the broadcasting environment which necessitate change and adjustment. For example, CBC network programming changes may make it increasingly difficult for affiliates to attract large audiences and remain commercially viable. The direct impact of introducing distant signals should not be confused with potentially negative business impacts from these other forces.

Also, as previously stated, if Canadian distant signals are not allowed to pose a competitive threat to local broadcasters, other forms of home entertainment or foreign signal services will.

Second, the main audience fragmentation has already occurred with the introduction of the American "3+1" into distant markets. Introducing additional Canadian signals into markets who already have at least six or seven signals is not likely to radically alter market shares.

Third, if the local character of broadcasting is a concern, distant signals may well help to further differentiate the local station by necessitating a shift towards more local programming.

Fourth, local broadcasters are concerned that they may not be able to purchase popular U.S. and Canadian programming, if distant signals, which also carry that programming, enter their markets.

Ontario's research indicates that there is very little duplicated programming between potential distant signals and local stations (in the sample market we studied, only 12 1/2 hours per week, 2 hours of which were Canadian). Local affiliates can work through their networks to compete against distant signal independents, or even band together outside the network structure to bid for rights to particular programs.

Finally, Ontario believes that regulatory restrictions on local broadcasters should be relaxed if their viability is threatened. For example, Canadian content requirements could be adjusted, or specific details of the promise of performance could be relaxed. A deregulatory rather than protectionist response is called for in this situation, if local broadcasters are to remain competitive.

Local Commitments of Superstations

The concern has been raised that superstations might neglect their local audiences and commitments if they are seeking larger national audiences.

The U.S. experience has shown that, at least in the early stages, superstations maintain strong ties with their local markets for two reasons. First, local advertising remains their "bread and butter", since they are a relatively small player in national advertising. Second, strong identification with local audiences provides a unique character to the stations. While the movies/sports/re-runs format also provides a differentiated identity, the three major U.S. superstations carry local news, sports and public affairs programming.

In Canada, it will be natural for distant signal stations to adjust their programming over time to find their niche in the national market. It is expected, however, that in the short term, they will not tamper with programming and scheduling which has been effective in their local markets. Nevertheless, Ontario recommends that in licensing broadcasters for distant signal transmission, they should be required to maintain local commitments in their promises of performance. This measure should ensure that superstations continue to serve their local markets. It should also help to differentiate their programming from that of local broadcasters in distant markets, and thereby reduce the fragmentation threat.

Cable Carriage Priority for Distant Signals

The Commission's public notice requests comments on the carriage priority or tiering of distant signals. This issue will be exceedingly complex, particularly if several stations choose to seek distant signal status.

Ontario is currently reviewing and conducting research into the composition of the basic and subsequent cable tiers, and believes that the changing environment may well require changes to existing policies and cable carriage priorities.

However, at this time, Ontario believes that cable carriage priorities should not change. The potential exists for consumers to have to pay more than they do at present for the same services, if one or more of the U.S. "3+1" are bumped by a Canadian distant signal onto a discretionary tier. Regardless of carriage priority regulations, at least the following fundamental principle should be upheld: subscribers should not have to pay additional fees for services they already receive.

In any case, where cable capacity in small communities permits, and no bumping of other priority services is necessary, distant signals should be carried on cable basic. Since distant signals would be advertiser-supported, and should reach the largest possible audience to achieve the "increased choice" objective, distant signals should be carried on cable converter-basic, where no capacity on the cable basic tier exists. Placing distant signals on a discretionary

tier would reduce potential audience reach, thereby reducing advertising revenues, and would likely mean that the financial viability of satellite distribution of the signal would be undermined.

Restrictions on Advertising Revenues

The Commission's public notice asks for views on whether any restrictions should be placed on the sources or nature of advertising on distant signals. Ontario recognizes the potential threat to national advertising revenues for local broadcasters, if advertisers begin "buying markets" through a distant signal rather than through the local affiliate. Nevertheless, Ontario believes that there are additional sources of advertising revenues to be exploited and that the local affiliates will remain strong competitors for national advertising in their markets.

Ontario also recognizes the difficulty in defining "local" and "national" advertising, and that increased national advertising revenue is the basis for a broadcaster to become a "distant signal". It is therefore suggested that no such restriction should be placed on the nature of advertising permitted. Ontario, does, however, recommend that superstations be restricted from soliciting advertising from sources in distant markets.

Correspondingly, any restriction on the airing of commercials originated on the distant signal would negate any incentive for national satellite transmission. Ontario, therefore, recommends that program substitution or commercial deletion should not be considered with respect to cable carriage of distant Canadian signals.

Should a Public Hearing Be Held?

Ontario was pleased with the responsive and decisive nature of the Commission's public notices respecting distant signals. Our submission on specialty services certainly pressed for introducing Canadian superstations without delay, and with a minimum of fanfare.

However, introducing distant signals is a major policy shift from the Commission's 1979 decision. If some broadcasters or other interested parties have reason to believe that this policy change will have an undue or unfair negative impact on their services or the broadcasting system, then a policy hearing should be held. Ontario would be pleased to share its research findings and participate in the hearing. Ontario does not believe that individual hearings for specific markets should be held, unless the concern is expressed by only a few local broadcasters across the country. The public expense, the time lag, and the repetition of facts and issues would negate any benefits that a series of hearings in markets all across the country might accrue.

Non-Advertiser Supported Services

Non-advertiser supported broadcast services such as TVOntario and other educational broadcasters require special consideration with respect to this issue. The basis for advertiser-supported broadcasters to absorb the cost of satellite transmission is the increased advertising revenue derived from extended audience reach. Any additional rights or exclusivity costs would be offset in the same way.

Educational broadcasters such as TVOntario (TVO), however, are carried on satellite to ensure penetration even in the most remote parts of the province which they are licensed to serve. Since TVO's signal can be picked up by cable companies or individuals outside of Ontario, and re-distributed, program rights costs have the potential to increase unduly. Since TVO is not advertiser-supported, it has no means of offsetting such increased costs. Carriage of TVO by cable companies outside of the Province of Ontario should only be allowed by the Commission if some contractual agreement exists between TVO and the cable company or other province. Ontario, therefore, recommends that, for the purposes of this public notice, non-advertiser supported broadcast services should not be considered distant signals.

What About Distant Radio Signals?

While Public Notice 1984-13 does not distinguish between distant television and radio signals on cable, Ontario believes that the Commission should deal with them separately. The issue of potential fragmentation of the local broadcaster's audience is common to both, but other issues and implications will be peculiar to each medium.

For example, most television viewing occurs through cable reception, while the bulk of radio listening occurs off-air, in automobiles as well as homes. The relatively low listenership on cable FM band makes distant radio signals a somewhat less urgent issue to deal with. It is Ontario's perception that many radio stations in small markets are financially more fragile than their television industry counterparts, and that more research is required before removing further restrictions on distant radio signals. Ontario would be pleased to participate in that research and to speak further to this issue at a public hearing.

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V Summary of Recommendations

In response to the issues raised by the Commission and other parties in response to CRTC Public Notices 1984-13 and 1984-68, respecting distribution of distant signals, Ontario recommends that:

1. THE COMMISSION SHOULD PERMIT CABLE CARRIAGE AND RE-BROADCASTING OF CANADIAN DISTANT SIGNALS.
2. REGULATORY RESTRICTIONS ON LOCAL BROADCASTERS SHOULD BE RELAXED IF THEIR VIABILITY IS THREATENED.
3. IN LICENSING BROADCASTERS FOR DISTANT SIGNAL TRANSMISSION, THEY SHOULD BE REQUIRED TO MAINTAIN LOCAL COMMITMENTS IN THEIR PROMISES OF PERFORMANCE.
4. CABLE CARRIAGE PRIORITIES SHOULD NOT CHANGE AT THIS TIME. SUBSCRIBERS SHOULD NOT HAVE TO PAY ADDITIONAL FEES FOR SERVICES THEY ALREADY RECEIVE.
5. WHERE CABLE CAPACITY PERMITS, DISTANT SIGNALS SHOULD BE CARRIED ON CABLE BASIC. DISTANT SIGNALS SHOULD BE CARRIED ON CABLE CONVERTER-BASIC, WHERE NO CAPACITY ON THE BASIC CABLE TIER EXISTS.
6. NO RESTRICTION SHOULD BE PLACED ON THE NATURE OF ADVERTISING PERMITTED, EXCEPT THAT DISTANT SIGNALS SHOULD BE RESTRICTED FROM SOLICITING ADVERTISING FROM SOURCES IN DISTANT MARKETS.

7. PROGRAM SUBSTITUTION OR COMMERCIAL DELETION SHOULD NOT BE CONSIDERED WITH RESPECT TO CABLE CARRIAGE OF DISTANT CANADIAN SIGNALS.
8. IF SOME BROADCASTERS OR OTHER INTERESTED PARTIES HAVE REASON TO BELIEVE THAT THIS POLICY CHANGE WILL HAVE AN UNDUE OR UNFAIR NEGATIVE IMPACT ON THEIR SERVICES OR THE BROADCASTING SYSTEM, THEN A POLICY HEARING SHOULD BE HELD.
9. FOR THE PURPOSES OF THIS PUBLIC NOTICE, NON-ADVERTISER SUPPORTED BROADCAST SERVICES SHOULD NOT BE CONSIDERED DISTANT SIGNALS.
10. MORE RESEARCH IS REQUIRED BEFORE FURTHER REMOVING RESTRICTIONS ON DISTANT RADIO SIGNALS.

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